

**Rocky Flats Citizens Advisory Board
Meeting Minutes
February 3, 2005
6 to 9 p.m.
College Hill Library, Front Range Community College
Westminster, Colorado**

Board Chair Jerry DePoorter called the meeting to order at 6:00 p.m.

BOARD / EX-OFFICIO MEMBERS PRESENT: Suzanne Allen, Jerry DePoorter, Joe Downey, Earl Gunia, Erin Hamby, Victor Holm, Mary Mattson, Mike Maus, Bill McNeill, Andrew Ross, Phil Tomlinson / Karen Lutz (DOE-RFPO), Steve Gunderson (CDPHE), Mark Sattelberg (USFWS), Rob Henneke (EPA), Scott Surovchak (DOE-LM).

BOARD / EX-OFFICIO MEMBERS ABSENT: Bill Kossack / none

PUBLIC / OBSERVERS PRESENT: K. Carignan (C.U. Boulder), Alan Trenary (Westminster resident), Roman Kohler (RF Homesteaders), David Abelson (RFCLOG), Bob Nelson (Golden and R.F. Cold War Museum), Hank Stovall (Broomfield), James Horan (Denver), Elizabeth Kelso (Denver), Cougar Schultz (Westminster). Carl Spreng (CDPHE), Carrie Ebersole (Metro State), Ian Marcotte (Denver), Todd Sargent (Boulder), Wendee Ryan (S.M. Stoller), Dave Geiser (DOE-LM40), Tony Carter (DOE-LM)/ Ken Korkia (RFCAB staff), Patricia Rice (RFCAB staff)

COMMUNITY DISCUSSION ON THE DEVELOPMENT OF A LOCAL STAKEHOLDER ORGANIZATION FOR ROCKY FLATS:

The Board scheduled this discussion to focus primarily on membership issues associated with the establishment of a Local Stakeholder Organization for Rocky Flats. The discussion was opened to include all those in attendance. Dave Geiser and Tony Carter with the Department of Energy Office of Legacy Management in Washington, D.C. were present.

Dave Geiser provided opening remarks. His job is to focus on the transition of Department of Energy (DOE) sites from other programs within DOE, such as the Office of Environmental Management, into the Office of Legacy Management. He introduced Tony Carter who is responsible for overall public involvement and interaction with other government entities, including local, state and other federal agencies. Dave stated that he and Tony were at the meeting to listen to what the community had to say about the creation of the Local Stakeholder Organization (LSO).

RFCAB Chair Jerry DePoorter gave a brief presentation to begin the discussion. Jerry pointed out that Congress created the LSOs as part of the 2005 Defense Authorization Act. LSOs are to be created at the three DOE closure sites: Rocky Flats, Fernald, and Mound. They must be established six months prior to site closure. They also are to include local elected officials or their designees and they must be a Federal Advisory Committee.

The Board has been discussing future public involvement after Rocky Flats closure for some time. Jerry stated that the Board sponsored a public workshop on this topic in June 2004. In December 2004, the Board approved a consensus recommendation to DOE outlining its thoughts on the creation of the LSO.

Jerry next outlined the Board's position with respect to membership on the LSO. As stated in its recommendation, the Board does not believe that the federal legislation establishing the LSOs meets the needs of the community because it excludes direct and equal participation by a wide range of local stakeholders. The Board believes membership should be open to all stakeholders and be broadly representative of all community interests. Jerry reviewed a list of potential stakeholders that was included in the recommendation. He then continued by listing other Board positions: that membership should include both elected officials and non-elected persons who would serve on an equal basis; that membership selection could follow the model used to first establish RFCAB; that membership terms should be staggered; that DOE, Fish and Wildlife, and the regulators would serve in an ex officio capacity; and that the principles of the Federal Advisory Committee Act, such as membership diversity and open meetings, should be used.

ADMIN RECORD

A Board member asked what establishment of an LSO six months before closure meant. Dave Geiser said he sought clarification from Congressional representatives, who said closure means completion of the physical cleanup work. Current estimates are that physical completion of cleanup will occur in December, putting the target date to establish the LSO by June of this year.

Jerry turned over the discussion to Board Executive Director Ken Korkia who outlined a set of questions to help guide the discussion. Ken reminded the group that the focus of the discussion was on LSO membership issues.

Ken first asked the participants to look at the potential list of stakeholders to be considered for LSO membership. The list includes the following:

- Citizens or residents, both locally and nationally
- Site workers, both current and former
- Students
- Local governments
- News media
- Regulators
- Those with technical interests
- Public interest groups
- Educators
- Health professionals
- Adjacent landowners
- Mineral rights holders
- Rocky Flats Museum interests

Participants generally agreed with the list. Representatives from both the state health department and the Environmental Protection Agency confirmed that they see their future participation as being in an ex officio capacity.

The discussion then turned to questions of how members would be selected for participation on the LSO. A Board member noted that someone first needs to determine what types of expertise will be necessary for the LSO and then set up an application and interview process to match those areas of expertise. A community member stated that whoever is in charge of the selection needs to be objective in terms of examining the expertise needed. The community member also stated that the group needs to be broad based, maintain current institutional memory, and have more than just elected officials as part of its make-up. Others mentioned the DOE as having responsibility for membership selection, particularly if the group is a Federal Advisory Committee. One community member said the Fish and Wildlife Service should establish the LSO.

Dave Geiser spoke about the apparent conflict in the federal legislation establishing the LSO. He has asked DOE general counsel to review the legislation. He has heard initially that the general counsel sees the LSO as being an "activities based organization" because of the specific activities for the LSO that are outlined in the legislation. If the group is to be activities based, then it would not solely be an advisory group, and thus would not need to be governed as a Federal Advisory Committee. The LSO legislation, however, states that the LSO is to be a Federal Advisory Committee. While this conflict is being worked out, Dave stated that it is Legacy Management's intention to seek input from stakeholders at Rocky Flats and at the other two closure sites, Fernald and Mound, on what mechanisms for future public involvement, including the LSO, would be beneficial. Legacy Management is committed to creating public involvement opportunities, such as public meetings after annual inspections, in addition to forming an LSO.

A Board member asked for clarification on the membership language in the LSO legislation. He stated that if the legislation is strictly interpreted to mean that only elected officials or their designees can belong, then we need to work to change the legislation.

David Abelson, the Executive Director of the Rocky Flats Coalition of Local Governments, spoke on how his organization views the membership issue. He stated the Coalition does not view the legislation as prohibiting the involvement of non-elected persons in a substantive manner. The Coalition is still working on defining what that substantive role would be.

Several Board members raised the example of the former Radionuclide Soil Action Levels Oversight Panel (RSALOP) that was composed of both elected officials and non-elected persons who oversaw the independent assessment of the soil cleanup levels for Rocky Flats. All members of the RSALOP were equal and shared in the decision-making for the group. Hank Stovall, former Broomfield Councilor and former Co-Chair for the RSALOP, confirmed this group as a good model because it was broad based and diverse.

There also was discussion of expertise as it relates to membership on the LSO. One of the first points raised is that the expertise needed today to look at cleanup issues may be different from the expertise needed in the future. Another point raised was that there will still be a need for institutional memory on the future group. Several participants noted that term limits for elected officials pose a problem when trying to maintain institutional knowledge.

The topic of equal voting among members of the future LSO was discussed. David Abelson reported that the Coalition members have yet to take a stand on this issue. He said some members are in favor and others are not. The meeting participants generally agreed that equal participation in the LSO decision-making would mean that all members could vote.

Dave Geiser was asked about the start-up date for the LSO. The legislation requires it be done six months before site closure. Dave stated that Legacy Management is moving as quickly as possible to meet a June 2005 target, but if they do not have a group up and running by that time, they hope to at least have a process outlined for establishing the group. He stated they would only go as quickly as necessary to ensure that an effective and productive group is established. It will be up to Congress to determine if they have met the intent of the law.

A concern was raised to David Abelson that the Coalition has not moved quickly enough on the question of LSO membership. David replied that the Coalition and RFCAB appear to have different priorities. He stated the Coalition has been working on the purpose, scope and mission as first priorities, before finalizing discussion on membership. The Coalition will discuss LSO issues at its February meeting and in April as well.

Ken Korkia next asked the group to start developing a list of pluses and minuses for two models of LSO organization. One model would have full and equal participation by a broad range of stakeholders in the community as part of the LSO, while the other model would limit full LSO membership only to elected officials or their designees.

David Abelson asked what the group meant by full and equal participation. He stated the Coalition members view participation as the ability sit around a common table receiving information and having a dialogue about the issues. The Coalition, however, still has not decided on whether equal participation would include voting. A Board member replied that the legislation does not seem to address the issue of voting, and in his view participation in a group means full and equal participation in decision-making. Otherwise, there would be two levels of participation, one for the decision-makers, and the other for non decision-makers. Another Board member stated that without full and equal participation in decision-making, it would be hard to recruit and retain people to participate. Another member noted a problem with getting elected and non-elected persons together is finding a common time to meet. Local governments generally prefer daytime meetings while the public needs evening meetings.

A concern was raised that if the group contains only elected persons, important decisions would be made in executive sessions. Several responded that the Colorado Sunshine Law precludes such decision-making.

A Board member pointed out a problem with having full and equal participation is that in reality not everyone is perceived as equal. Some entities, such as a local city government, are going to be viewed as having more authority than a single citizen who represents only him or herself. It was also pointed out that even among local governments, some larger cities or counties might be seen as having more authority than smaller ones.

Participants continued to list pluses and minuses for the two models of LSO organization. Broad spectrum expertise was listed as a plus for the broad representation model and a minus for the elected officials only model. A plus was listed on the elected officials only model in that local governments could have as their designee an expert who would work a substantial amount of time on the issue.

Below is the chart developed during the discussion outlining the "pluses" and "minuses" of the two models of LSO membership.

Full and Equal Participation by All			Local Elected Official or Designees Only	
Pluses	Minuses		Pluses	Minuses
Members need to feel impact is validated	Conflicts in meeting times		Would have dedicated staff focusing on the issues	Limited expertise
Have broad spectrum of expertise	Not everyone is perceived as "equal"			Not all governments are equal
Allows open airing of issues				Politicians can be influenced
Allows full range of expertise to be drawn upon				
Better to err on the side of full public participation than risk no participation				

More discussion was held on the topic of expertise. One Board member pointed out that expertise is important, but it must include diverse expertise. Another Board member stated that the focus should not be on just technical expertise. Dave Geiser asked the group to remember that the focus on expertise needs to look at the future.

The participants also considered how to recruit LSO participants. Besides just focusing on expertise, one needs to look for volunteers who have time and interest in the issue. A Board member suggested the recruitment issue is something that should be considered jointly by the Board and the Coalition.

In concluding the discussion, Ken Korkia asked the group to consider its next steps. Jerry DePoorter and Ken Korkia will report on the discussion when they attend the upcoming Coalition meeting. Members also agreed to continue their own discussion at the February 17 Committee Night meeting.

Dave Geiser reported that he had heard much in the discussion and looks forward to continuing dialogue. He believes the community is in agreement on most LSO issues, and encouraged the community to continue its dialogue.

Ken Korkia asked the group to consider if the process of separate discussion by the CAB and the Coalition was productive. David Abelson responded that he had discussed the possibility of joint meetings between the two groups with his Executive Committee, but they were not receptive. He suggested he and Ken sit down as representatives from the two organizations to continue a dialogue. A Board member asked whether it would be better for the two chairs of the groups to sit down together. David responded his chair did not have the time. Another Board member suggested that perhaps the Coalition members did not feel the CAB members were their equals. David stated that may be the case for some, but not all his members.

The Board next developed a list a questions to discuss with the Coalition. They would like to know how the Coalition defines substantive participation. The Board would like to know what reservations the Coalition has in having full and equal participation by a broad range of representatives on the LSO.

A member asked who the Coalition thinks is responsible for establishing the LSO. David Abelson responded that the Coalition has this responsibility as defined in the legislation establishing the LSO. He explained that the original intent of the legislation was to transition the Community Reuse Organizations to become the LSOs.

A community member advised the Board that they need to establish a timeframe for resolving issues about the LSO or it would never be accomplished in time.

In closing comments, a Board member suggested the CAB and Coalition should work together in contacting Senator Allard to amend the federal legislation so that it was clearer in establishing a role for both elected officials and non-elected persons.

PRESENTATION ON THE ROCKY FLATS SITE-WIDE INTEGRATED PUBLIC INVOLVEMENT PLAN:

Karen Lutz of the Department of Energy's Rocky Flats Project Office gave a presentation on the draft Site-Wide Integrated Public Involvement Plan (PIP). The draft plan is an update of an existing plan. Yearly reviews of the PIP are required by the Rocky Flats Cleanup Agreement and the National Oil and Hazardous Substances Pollution Contingency Act. Karen said the plan is meant to cover the period through physical and regulatory closure of the site. A separate plan is being developed for the post-closure period. The plan provides opportunities for two-way communication between DOE and stakeholders and provides for public input into the decision-making process.

The draft PIP was issued Jan. 24, 2005 for a 45-day public comment period that will end March 10, 2005.

The objectives of the plan are to:

- Encourage and ensure early and meaningful public involvement
- Provide accurate cleanup and closure information to stakeholders
- Allow stakeholders an opportunity to provide input and have their opinions considered
- Meet state and federal legal requirements

Karen said the public is kept informed through the Reading Room and the Administrative Record; news releases and community advisories; fact sheets; mailing lists; the www.rfets.gov website; e-mail notifications; speakers' bureau; site tours; public meetings and workshops; topical meetings; informational and decision documents; public comment; and responsiveness summaries.

Future public involvement opportunities include public participation in independent validation and verification; the Resource Conservation and Recovery Act (RCRA) Facility Investigation-Remedial Investigation/Corrective Measures Study-Feasibility Study (RFI-RI/CMS-FS) which is often shortened to "Remedial Investigation/Feasibility Study (RI/FS);" the Proposed Plan; the Corrective Action Decision/Record of Decision (CAD/ROD); and updated Regulatory Agreement.

Other areas of public involvement include the establishment of the Local Stakeholder Organization (LSO), post-closure public involvement, input on the Memorandum of Understanding between the Department of Energy and the Department of Interior, U.S. Environmental Protection Agency (EPA) Certification, and periodic review.

Steve Gunderson of the Colorado Department of Public Health and Environment (CDPHE) encouraged board members and the public to attend a public meeting next week on Independent Validation and Verification that is being sponsored by the Department of Energy and the CAB. Steve said there may be a surprise announcement on the IVV process. Steve also said the Stewardship Working Group and the Environmental Remediation/Decommissioning and Demolition meetings may be combined in the next couple of months.

Steve commented that the public would be involved in commenting on the RI/FS. The working draft of the RI/FS will begin to be released to the public, one section at a time. Scott Surovchak, local site representative for the Office of Legacy Management, said he is planning to make a presentation on the RI/FS at the next ER/D&D meeting.

David Geiser of LM's Policy and Site Transition division in Washington, D.C. said LM will offer opportunities for public involvement in the post-closure period. He said there will be an annual inspection of the site and an annual meeting will be held to discuss the inspection. LM also has data on Rocky Flats in its Geospatial Environmental Mapping System (GEMS) on its web site. They are also planning a way to access records on the web site. David said, however, that in general, LM will not have to make many decisions and it will likely become difficult to get the public interested. Tony Carter, head of LM's office of Stakeholder Relations, said LM is committed to public outreach, however.

APPROVAL OF RECOMMENDATION ON THE GROUNDWATER INTERIM MEASURE/INTERIM REMEDIAL ACTION DOCUMENT:

Patricia Rice presented the draft of the Board's recommendation on the Groundwater Interim Measure/Interim Remedial Action (IM/IRA). Between the time the Board packet was sent and the meeting, Bill McNeill suggested a change to No. VII of the recommendation. That change asks that the document address the effectiveness of the

present groundwater treatment systems and that it also focus on long-term stewardship activities. The Board unanimously adopted the revised recommendation to the Department of Energy.

In summary, the following points are raised in the recommendation:

- The document needs to provide more information on the post-accelerated monitoring network.
- With respect to the planned phytoremediation efforts described in the document, the Board recommends several things: that more information on the effects of dormant periods be included; that the document address monitoring of the plant community; that the document provide examples of successful remediation efforts involving volatile organic compounds; and that the document needs to address how plants will be sampled for contaminants and disposed if contaminants are found.
- Details of how groundwater remediation in the 903 Pad/Ryans Pit areas needs to be released for further public comment when they are developed.
- The document needs to include information on what will happen in case a remedy fails.
- With respect to biodegradation as a remedy option, the Board recommends the following: the document needs to clarify what laboratory sampling has been done to prove the efficacy of the biodegradation; and that a monitoring plan needs to be added to prove that biodegradation is working.
- The document needs to provide information on how flows from the Present Landfill may affect surface water in the event that contamination levels increase and on the effectiveness of the treatment system for removal of volatile organic compounds in cold weather.
- The document needs to include reference to other documents that describe the passive groundwater treatment systems already in place and that more information be included that discusses the long-term performance of these treatment systems.
- The Board lists several of the maps and illustrations in the document which need improvement to provide better clarification for both current and future readers.

UPDATE ON THE INDEPENDENT VALIDATION AND VERIFICATION OF ROCKY FLATS CLEANUP:

Phil Tomlinson and Jerry DePoorter gave an overview on their trip to Oak Ridge, Tenn., and Oak Ridge Institute for Science and Education (ORISE). ORISE oversees the independent validation and verification (IVV) of building contamination at Rocky Flats and will also do an IVV of surface soil sampling. Phil said he and Jerry reviewed documents and lab manuals, among other things, and met the people involved in the IVV process. He said they looked at the management and handling of samples by ORISE. Phil and Jerry were impressed with the quality of laboratory work. They will write a report on their experience for the Board.

PUBLIC COMMENT / NEW BUSINESS:

There was no public comment.

Karen Lutz of DOE said the treatment system on Pond A-4 is now running. It is treating 2 million gallons of water a day, and there are 24 million gallons to treat. In November, high levels of Americium were measured in Ponds A-3 and A-4. The source has been traced to a manhole near the former site of Building 771. It was decided that the water from Pond A-3 would be pumped into A-4 and then Pond A-4 water would be treated. John Rampe is attempting to set up a tour for next week or the week after. Sample measurements along North Walnut Creek, which is upstream of Pond A-4, show levels of americium have dropped to 0.02 picocuries per liter (pCi/l). The standard is 0.15 pCi/l.

PLANNING FOR UPCOMING MEETINGS:

For the February 17 Committee Night meeting, the Board will continue its discussion on the Local Stakeholder Organization. They also will discuss comments the Board may have on the Site-Wide Integrated Public Involvement Plan.

At the March Board meeting, the featured presentation will be on the development of the Remedial Investigation/Feasibility Study for the site. The Board also will approve a recommendation on the Site-Wide

Integrated Public Involvement Plan. There also will be an update on the Independent Validation and Verification of Rocky Flats cleanup.

NEXT MEETING:

Date: March 3, 2005 – 6 to 9 p.m.

Location: Broomfield Senior Center, Lakeshore 1 Room

Agenda:

- *Presentation and Discussion on Rocky Flats Closure Progress*
- *Approval of Recommendation on Local Stakeholder Organization Issues*
- *Approval of Recommendation on the Rocky Flats Site-Wide Integrated Public Involvement Plan*

MEETING ADJOURNED AT 9:00 p.m. *

(* Taped transcript of full meeting is available in the RFCAB office.)

RESPECTFULLY SUBMITTED:

Bill Kossack, Secretary
Rocky Flats Citizens Advisory Board

The Rocky Flats Citizens Advisory Board is a community advisory group that reviews and provides recommendations on cleanup plans for Rocky Flats, a former nuclear weapons plant outside of Denver, Colorado.

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